

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2001-423-C - ORDER NO. 2002-207
MARCH 20, 2002

IN RE: Consumer Advocate for the
State of South Carolina,

Complainant,

vs.

BellSouth Telecommunications, Inc.,

Respondent.

) ORDER ✓
) DISMISSING
) PETITION
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D.W.

This matter comes before the Public Service Commission of South Carolina (the Commission) on a Motion to Dismiss filed by BellSouth Telecommunications, Inc. (BellSouth). The Consumer Advocate for the State of South Carolina (the Consumer Advocate) had filed a Petition requesting that this Commission commence a proceeding to investigate BellSouth's recent tariff filing (Tariff No. 2001-457) that increased prices for certain optional services and reduced BellSouth's access charges. The Consumer Advocate alleged, among other things, that the proposed price increases and proposed reductions in switched access charges have not been shown to be in the public interest. According to the Consumer Advocate, the reductions may have adverse effects on the Universal Service Fund (USF) and Interim LEC Fund (ILF), and that these consequences represent an abuse of market position and must be investigated.

BellSouth filed a Motion to Dismiss the Consumer Advocate's Petition. (The parties also filed other responsive documents.) After due consideration, we grant the Motion to Dismiss.

S.C. Code Ann. Section 58-9-576(B)(5)(Supp. 2001) sets forth the standard for determining the appropriateness of BellSouth's prices. It requires that a local exchange carrier (LEC) set its rates "on a basis that does not unreasonably discriminate between similarly situated customers" and provides that the rates the LEC establishes "are subject to a complaint process for abuse of market position." There is no specific "public interest" requirement in the statute.

The guidelines adopted by this Commission to govern alternative regulation for BellSouth likewise do not require a public interest analysis. Although the Consumer Advocate proposed such a public interest standard at the time of the adoption of the guidelines, no such standard was adopted. Although the interest of the public is always of paramount interest to this Commission, the Consumer Advocate cites no specific mechanism available for its application to this case in the statutory scheme laid out by the General Assembly, or in this Commission's adopted guidelines.

Further, the Consumer Advocate alleges that the price decreases set forth in the tariff filing represent an "abuse of market position" because the decreases will place an increased demand on USF and the ILF. This allegation is without merit. In order to receive additional support through USF, BellSouth must make a request for the additional support. BellSouth has made no such request. If BellSouth or any carrier makes additional requests for USF support, the Consumer Advocate will have an opportunity to

raise any relevant issue that it deems appropriate. Until such requests are made, the price changes in the tariff filing have no impact on the Universal Service Fund.

Similarly, no carrier has requested changes to the ILF. If a carrier makes such a request, the Consumer Advocate will again have an opportunity to question it.

Further, the Consumer Advocate does not allege that BellSouth's prices for the subject services are below BellSouth's long run incremental costs and no competitor in the marketplace has complained about the price decreases being an abuse of market position.

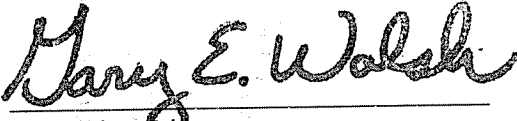
In short, the Consumer Advocate's Petition is without merit, and the Motion to Dismiss is therefore granted.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)